

THE UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH

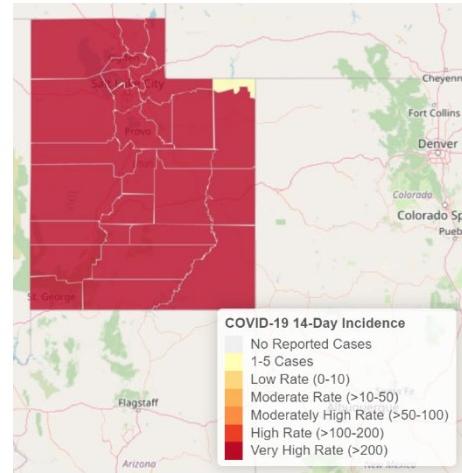
UNITED STATES OF AMERICA,  
Plaintiff,  
v.  
RAUL ANDURAY,  
Defendant.

**MEMORANDUM DECISION AND  
ORDER CONTINUING TRIAL  
AND EXCLUDING TIME  
UNDER THE SPEEDY TRIAL ACT**

Case No. 4:21-cr-00097-DN-PK-2

District Judge David Nuffer  
Magistrate Judge Paul Kohler

This case is currently set for trial on February 8, 2022.<sup>1</sup> Given the [unrelenting persistence](#) of the Coronavirus Disease (“COVID-19”), a status conference was held<sup>2</sup> to discuss the status of the case and whether to continue trial. Based on the filings in this case, discussions at the status conference, and [General Order 22-002](#), under DUCrimR 12-1(l) and for good cause appearing, the court makes the following findings:



<sup>1</sup> [Docket no. 36](#), filed Nov. 23, 2021.

<sup>2</sup> See docket no. 27, entered Jan. 14, 2022 in *USA v Amaya*, 4:21-cr-00096-DN-PK-1 (Ut. 2021).

1. An Indictment was filed against Mr. Anduray on September 8, 2021.<sup>3</sup> Mr. Anduray was arraigned on September 24, 2021.<sup>4</sup> Trial was initially set for December 7, 2021,<sup>5</sup> but was continued to February 8, 2022.<sup>6</sup>

2. Against the backdrop of Mr. Anduray's case, the country has been wrestling the outbreak of the Coronavirus Disease (COVID-19). On March 16, 2020, Chief Judge Robert Shelby issued General Order No. 20-009 in response to the outbreak, continuing all criminal jury trials pending further order of the Court. Through successive General Orders, Chief Judge Shelby vacated all jury trials through April 2021.

3. On April 29, 2021, pursuant to General Order No. 21-003, the courthouse began continuous, consecutive jury trials, one trial at a time in the courthouse. The Court entered General Order No. 21-015 on October 27, 2021, extending Phase II of the Court's phased reopening plan through January 31, 2022. Chief Judge Shelby ordered that the time between April 1, 2021 and January 31, 2022 was to be excluded from speedy trial calculations pursuant to 18 U.S.C. § 3161(h)(7)(A).

4. On January 5, 2022, the Court entered General Order No. 22-002, which moved the Court back to Phase I of the Court's phased reopening plans and vacated all jury trials scheduled between now and February 14, 2022 due to the impact of the new Omicron variant. Chief Judge Shelby ordered that the time between January 1, 2022 and February 14, 2022 was to be excluded from speedy trial calculations pursuant to 18 U.S.C. § 3161(h)(7)(A).

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<sup>3</sup> Docket no. 1.

<sup>4</sup> Docket no. 20.

<sup>5</sup> *Id.*

<sup>6</sup> Order Granting Motion to Continue Jury Trial and Exclude Time under the Speedy Trial Act, docket no. 36, filed Nov. 23, 2021.

5. General Order No. 22-002 grants Judge Nuffer emergency authority promulgate rules and procedures for the Southern Region proceedings consistent with State of Utah and Washington County directives and COVID-19 conditions within the Southern Region.<sup>7</sup>

6. At the status conference, the court, counsel for Mr. Anduray, and the USA discussed the following:

The current spike in COVID-19 cases due to the Omicron variant, and the difficulty this has created for trial preparation (18 U.S.C. § 3161(h)(7)(B)(iv)), including:

Barriers to defense counsel's ability to meet with Mr. Anduray to prepare for trial because of jail visitation restrictions which are subject to change.

The public health risks associated with holding a jury trial in the midst of the COVID-19 pandemic and the new spike in cases due to the Omicron variant.

*See also* General Order 22-002 at 3–5.

7. Both Mr. Anduray's counsel and the USA do not object to continuing trial.

8. The court suggested a new trial date of Wednesday, April 20, 2022, with virtual voir dire on Tuesday, April 19, 2022, and defense counsel and the USA did not object to the date.

Based on the foregoing findings, the court concludes that failure to grant a continuance would result in a miscarriage of justice. *See* 18 U.S.C. § 3161(h)(7)(B)(i). Therefore, the ends of justice served by such a continuance outweigh the best interests of the public and Defendant in a speedy trial.

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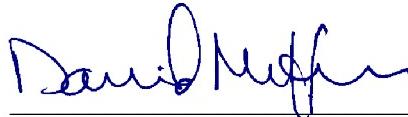
<sup>7</sup> General Order 22-002 at 13.

**ORDER**

IT IS HEREBY ORDERED the 3-day jury trial previously scheduled to begin on February 8, 2022, is vacated, along with all trial related dates. The 3-day jury trial is reset to begin on April 20, 2022 at 8:30 a.m., with virtual voir dire scheduled for Tuesday, April 19, 2022. The time between the entry of this Order and the new trial date set forth above is excluded from speedy trial computations for good cause.

Signed January 24, 2022.

BY THE COURT



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David Nuffer  
United States District Judge